

**Diamond Williams**

100340-TP

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**Sent:** Tuesday, February 08, 2011 4:14 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** ckiser@pcs.state.fl.us; Adam Teitzman; Charles Murphy; Vicki Gordon Kaufman; mstudstill@telecomgroup.com  
**Subject:** Docket No. 100340-TP: Request for Settlement Discussions, Mediation and to Hold Docket in Abeyance

**Attachments:** Request for Settlement Discussions, Mediation & to Hold Docket in Abeyance 02.08.11.pdf

In accordance with the electronic filing procedures of the Florida Public Service Commission, the following filing is made:

a. The name, address, telephone number and email for the person responsible for the filing is:

Vicki Gordon Kaufman  
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b. This filing is made in Docket No. 100340-TP.

c. The document is filed on behalf of the Companies.

d. The total pages in the document are 7 pages.

e. The attached document is Request for Settlement Discussions, Mediations and to Hold Docket in Abeyance.

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Investigation of Associated  
Telecommunications Management  
Services, LLC (ATMS) companies  
For compliance with Chapter 25-  
24, F.A.C., and applicable lifeline,  
Eligible telecommunication carrier, and  
Universal service requirements.

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Docket No. 100340-TP

Filed: February 8, 2011

**REQUEST FOR SETTLEMENT DISCUSSIONS, MEDIATION AND TO HOLD  
DOCKET IN ABEYANCE**

All American Telecom, Inc., American Dial Tone, Inc., Bellerud Communications, LLC, BLC Management, LLC, LifeConnex Telecom, LLC, and Triarch Marketing, Inc. (the Companies), pursuant to section 120.573, Florida Statutes, file this request to continue settlement discussions, and in event such discussions are unsuccessful, for mediation. Further, the Companies request that this docket be held in abeyance during settlement and mediation.

**INTRODUCTION**

1. The names of Petitioners is as stated above. The addresses and contact information for Petitioners is:

Michelle P. Studstill  
General Counsel  
Associated Telecommunications Management Services, LLC  
6905 N. Wickham Road, Suite 403  
Melbourne, FL 32940  
Telephone: (321) 373-4292  
Facsimile: (321) 250-4407  
[mstudstill@telecomgroup.com](mailto:mstudstill@telecomgroup.com)

2. Copies of all correspondence, pleadings and other documents filed in this proceeding should be provided to:

Vicki Gordon Kaufman  
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3. The affected agency is the Florida Public Service Commission. The Commission's address is:

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

### **BACKGROUND**

4. Associated Telecommunications Services, LLC (ATMS), is a telecommunications management company which, through acquisition, purchased nine telephone companies a little over a year ago. ATMS operates in Florida and many other southern and mid-western states. Today, the Florida companies provide telephone service to nearly 9,000 customers in Florida.

5. During the acquisition process described above, ATMS does not deny that there may well have been regulatory issues that it failed to discover. However, ATMS stands ready to remedy any such issues and has made that abundantly clear to Staff numerous times.

6. It is also pertinent to note that the ATMS and its affiliates employ nearly 600 people in Florida who work on telephone operations all over the country. It is to everyone's

benefit – the Companies, customers, employees, and the State of Florida -- that this matter be resolved and these jobs retained in the state.

### **DOCKET BACKGROUND**

7. This docket was opened on June 28, 2010 via a memorandum from Staff. The memorandum contained no information regarding what Staff's investigation might concern. At the same time, subpoenas were issued to each of the Companies seeking voluminous information, some of it clearly outside the Commission's jurisdiction. After the filing of extensive motions to quash, the Companies were ultimately able to work with the Staff to narrow the subpoenas and have provided all information agreed upon.<sup>1</sup>

8. At the same meeting at which the subpoenas were discussed, the Companies pledged their cooperation to Staff and indicated their desire and willingness to work with Staff to timely resolve the issues with which Staff was concerned.

9. And, the Companies have diligently attempted to work with Staff in this matter. At all times, the Companies have stood ready to timely address all reasonable concerns brought forward by Staff.

10. On January 31<sup>st</sup>, at the request of the Companies, a meeting was held with Staff. Without divulging the substance of the discussions, the Companies again made it clear that they were absolutely ready, willing and able to implement any reasonable measures Staff believed to be necessary to address issues Staff might have.

11. Though the meeting was cordial, despite repeated requests from the Companies, they were given little guidance as to what they might offer or do which would enable the parties to engage in substantive discussions to reach a settlement in this matter. Rather, the Companies were given a scant 4 days to devise a comprehensive agreement, with little direction from Staff

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<sup>1</sup> In addition, information has been sought and provided outside of the context of this docket.

as to what that might entail or what Staff might find acceptable. Rather, Staff discussed a myriad of unsubstantiated allegations, leaving the Companies to try to guess at what Staff was alleging or what Staff might view as acceptable remedies. Further, hanging over the Companies' is Staff's intention (stated multiple times in the meeting) to file, what the Companies can only assume is, a very negative recommendation on February 10<sup>th</sup>, without even having engaged in meaningful settlement discussion with the Companies.

12. Subsequently, the Companies requested that Staff allow the Companies until February 18<sup>th</sup> to file a proposal. Staff refused, but did concede to an extension until February 8<sup>th</sup> for the proposal and stated they were now seeking a "framework" for discussion. The Companies then filed a letter seeking additional time (until February 18<sup>th</sup>) to file a settlement proposal (and set out the reasons for the request) and also requested a meeting with Staff to discuss any such proposal. Staff has continued to insist upon a framework document, which they will then review and decide if further discussions will ensue.

13. On February 8<sup>th</sup>, the Companies filed a framework document which will provide the foundation for detailed discussions with Staff. The Companies would like to proceed with those discussions and request that the Commission direct its Staff to do so.

14. However, the Companies find it necessary to file this pleading because they have been put in the untenable position of having filed a proposal with little guidance from Staff as to what Staff is seeking and because they also understand that Staff intends to proceed with its recommendation if it unilaterally does not find the proposal to its liking.

15. The Companies are willing to engage in meaningful settlement discussions with Staff, and have repeatedly communicated that to Staff. The Companies are hopeful that after review of the Companies' February 8<sup>th</sup> framework document Staff will agree to meet for

substantive settlement discussions. However, in an abundance of caution, the Companies file this request in the event Staff refuses to meet.

16. If Staff refuses to meet with the Companies, they request that the Commission direct its Staff to do so. In the event Staff meets with the Companies and no settlement can be reached, the Companies request that mediation begin.

### MEDIATION REQUEST

17. Based on the background provided above, it is the Companies' view that mediation of this dispute (if no settlement can be reached) by an independent mediator would be extremely helpful in defining the issues and formulating an appropriate and positive conclusion to this matter. While it may be unusual to request mediation with the Staff, it is clear that in this instance, the Staff is acting in a prosecutorial role and is a party adverse to the Companies.

18. The Commission has often commented that settlement of disputes is a valuable and efficient way in which to handle contested matters. The Commission has encouraged parties to engage in settlement or mediation as an efficient, cost-effective way to settle disputes. As recently as last month, the Commission commented on its "long-standing practice of encouraging parties to settle contested proceedings..."<sup>2</sup> The Commission also commented in its approval of a settlement regarding a Verizon show cause proceeding:

This Settlement Agreement avoids the time, expense and uncertainty associated with adversarial litigation, in keeping with the Commission's longstanding policy and practice of encouraging parties in contested proceedings to settle issues whenever possible.<sup>3</sup>

19. The Companies assert that mediation would be useful in this case to attempt to clearly define and narrow and resolve the issues rather than proceeding to a full scale evidentiary

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<sup>2</sup> Order No. PSC-11-0012-PAA-SU. *See also*, Order No. 10-0580-PAA-EU.

<sup>3</sup> Order No. PSC-09-0782A-AS-TP.

hearing, with the attendant time and resource commitments of the Companies, Staff and the Commission.

20. Therefore, the Companies request that the Commission:
  - a. Direct Staff to engage in substantive settlement discussions with the Companies;
  - b. Order mediation by an independent mediator if settlement discussions are unsuccessful;
  - c. Hold this docket in abeyance, including the filing of any recommendation, until the conclusion of settlement discussions and mediation, if necessary.

**WHEREFORE**, the Companies request that the Commission hold this docket in abeyance and that the parties be directed to engage in settlement and, if necessary, mediation.

s/ Vicki Gordon Kaufman

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Attorneys for the Companies



**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Request for Settlement Discussions, Mediation and to Hold Docket in Abeyance has been furnished by electronic mail and US Mail this 8<sup>th</sup> day of February 2011 to the following:

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s/ Vicki Gordon Kaufman

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